*THE HONOURABLE SRI JUSTICE V.V.S.RAO

+WRIT PETITION No.25984 of 2006

%15-12-2006

Datla Rajeswari

..PETITIONER

Vs.

$ The Divisional Engineer, O&M 400 KV Sub Station, A.P.Transco., Vemagiri, Rajahmundry, East Godavari District.

..RESPONDENT

! COUNSEL FOR PETITIONERS: Mr.A.K.Kishore Reddy

^ COUNSEL FOR RESPONDENT: Standing Counsel for A.P.Transco.,

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>HEAD NOTE:

?CASES REFERRED:

1. AIR 1968 SC 1450
2. (1986) 2 SCC 512 = AIR 1986 SC 1162

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25984 OF 2006

DATED 15TH DECEMBER, 2006

Between

Datla Rajeswari

... Petitioner

AND

The Divisional Engineer, O&M 400 KV Sub Station, A.P.Transco., Vemagiri, Rajahmundry, East Godavari District.

... Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25984 OF 2006

ORDER:

The petitioner herein satedly the owner of agricultural land admeasuring Acs.4.65 comprised in survey Nos.254/1 of Gollagunta village of Jaggampet Mandal in East Godavari District. She alleges that most of the ryots in the area stopped cultivating paddy fields and raised commercial crops. So as to prevent losses, the petitioner planted 600 teak plants in March, 1999 after purchasing the plants from M/s.Kisan Tissue Culture Private Limited. The teak plants would yield good returns if they are allowed to grow in size. However, the respondent issued a letter, dated 21.07.2006 directing the petitioner to remove the teak plants. It is alleged by the respondents that the teak plants were planted after erection of 400KV transmission lines over her land and that the teak plants are interfering in the facilitation of uninterrupted transmission energy. The said letter/notice is challenged in the writ petition.

Learned counsel for the petitioner relies on the Xerox copy of the receipt issued by M/s.Kisan Tissue Culture Private Limited for supplying teak plants in support of the contention that the petitioner planted teak in 1999 before the erection of the transmission lines, and therefore the respondent cannot compel the petitioner to remove the teak plants. He

also submits that under Section 18(3) of the Indian Electricity Act, 1910 (the Act, for brevity) the respondent is competent to remove the trees and structures, which are erected subsequent to placing the transmission line but the respondent has no authority to remove the trees and structures, which were existing prior to erection of the transmission lines. Alternatively, he submits that if the petitioner is deprived of her right to enjoy her land by raising crops or teak plantation, the respondent is bound to pay compensation to the petitioner.

The submission that Section 18(3) of the Act permits only the trees/structures erected subsequent to placing the transmission lines, is misconceived. Section 18(3) of the Act reads as under.

> 18(3): Where any tree standing or lying near an overhead line or where any structure or other object which has been placed or has fallen near an overhead line subsequently to the placing of such line interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of energy or the accessibility of any works, a Magistrate of the First Class or in a Presidency-town the Commissioner of Police may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he thinks fit.

Under Section 18(3) of the Act, on a request made by the licensee (electricity company), the Magistrate of First Class or the Commissioner of Police may cause the tree and/or structure or object to be removed or otherwise dealt with as it deems fit. What are the trees or structures or objects that can be removed.

The first part of Section 18(3) of the Act refers to trees standing or lying near an overhead line. The next part, which is separated by the word 'or' speaks of structures or other objects placed near transmission line subsequently. The three sentences are separated by the word 'or' disjointedly and therefore applying the settled principle of interpreting the word 'or', one should conclude that these are three separate categories.

One has to read the word 'or' normally as disjunctive and the word 'and' is normally conjunctive. (See **Ishwar Singh Bindra v State of U.P.,** [1] and **M.Satyanarayana v State of Karnataka** [2]). The submission, therefore, that only trees which existed prior to the placing of overhead line can be removed, is misconceived. Any tree standing or lying near an overhead line, which interrupts or interferes or is likely to interrupt or interfere with the conveyance or transmission of energy or the accessibility of any works, can be removed. Even applying the principle of minimum rationality to the provision, it is reasonable to interpret Section 18(3) of the Act, the way as hereinabove because if it is held that all the trees which existed near the overhead line prior to placing such line, cannot be removed, it would result in extremely hazardous and

dangerous situations. Therefore, the Legislature chose the language very carefully and described the objects and things that can be removed, which interrupts or interferes with the conveyance of energy through overhead transmission lines. It is only in the situation of object, which falls down subsequently, the power is slightly restricted. So to say, a structure existing near transmission line can be removed only if it falls down subsequently. Therefore, whether trees are planted prior or subsequent to placing the electricity lines, it makes no difference insofar exercising power under Section 18(3) of the Act.

In the impugned order, the respondent informed the petitioner as under.

> 1. That the A.P.Transco, under an approved scheme, laid a 400 KV Line in the year 2000-2001 from Kalpaka (Vizag) Khammam I and II, a part of which is passing through your land in R.S.No.254/1 of Gollalagunta village under Location No.371-372.
>
> 2. That subsequent to the placing of such line, you have planted Teakwood plants both underneath and abutting the line and the same are likely to interfere/interrupt the conveyance of transmission of energy in near future and accessibility for maintenance of lines against 79, 80 of I.E. Rules 1956.
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> 3. You are therefore hereby called upon to cause removal of the subsequently placed teakwood trees both underneath abutting the 400 KV Lines passing through your land within fifteen days on receipt of this notice, to facilitate uninterrupted transmission of energy falling which our Department will be obliged to initiate action under Section 18 of I.E.Act, 1910 and you will be held liable for all consequences.

Rules 78 and 80 of the Indian Electricity Rules, 1956, prescribed minimum distance (clearance) between conductors and control wires as well as clearance from buildings of high and extra-high voltage lines. That is the reason why the respondents states that the teak plants underneath 400 KV lines are likely to interfere/interrupt the conveyance of transmission of energy in the near future and accessibility for maintenance of lines. The power exercised, therefore, cannot be faulted.

As a last submission, the learned counsel contends that the petitioner is entitled to compensation for the loss of the trees. If the law permits acceptance of such claim, it is always open to the petitioner to claim such compensation by approaching the respondent authority.

The writ petition is misconceived and is accordingly dismissed. No costs.

(V.V.S.RAO,J)

15.12.2006.

Note: LR copy be marked.

(By order)

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[1] AIR 1968 SC 1450

[2] (1986) 2 SCC 512 = AIR 1986 SC 1162